THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 27320 OF 1997

Dated 31st January 2007

Between:

T.Krishna Mohan Rao

...Petitioner

and

Government of A.P., rep.by Secretary,
Social Welfare (F.r) Department & others.

...Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 27320 OF 1997

O R D E R:

One Chattapally Satyanarayana was assigned an extent of Ac.40-00 of land in various survey numbers of Jaddangi village of present Rajavommangi Mandal, East Godavari District, way back in the year 1935. He in turn sold out the same to the father of the petitioner, under a sale deed dated 13.5.1991. The petitioner states that during the life time of his father, an extent of Ac.17-32 cents of land was sold to various persons, and that he is left with Ac.22-68 cents of land.

Since the land is situated in a tribal area, the respondent initiated proceedings under the A.P. (Schedule Areas) Land Transfer Regulation, 1959, as amended through Regulation 1 of 1970, vide L.T.R.P.No.8

of 1981. The transfer was between two non-tribals. The eviction of the petitioner from the land was ordered. Petitioner availed the remedy of appeal and revision, and the same resulted in remand of the matter, to the Special Deputy Collector. After remand, the case was renumbered as

L.T.R.P.No.273 of 1988, on the file of the 3 rd respondent. Through his order dated 4.1.1991, the 3rd respondent ordered eviction of the petitioner. Aggrieved thereby, the petitioner filed an appeal before the 2nd respondent in C.M.A.No.14 of 1991. The appeal was also dismissed. A revision preferred by the petitioner before the

1st respondent was rejected, through orders in G.O.Ms.No.86, dated 26.6.1997. The same is challenged in this writ petition.

Sri M.Lakshmana Sarma, learned counsel for the petitioner, submits that the sale in favour of the father of the petitioner took place, much before the Regulation came into force, and the sale ought not to have been set aside. He contends that all the authorities, who dealt with the matter, took note of the Board Standing Orders, which restricted the assignment to 5 acres wet or 10 acres dry land, without clarifying as to whether the same was in vogue, in the year 1935. Learned counsel further submits that even if for any reason, the sale in favour of the petitioner is invalid or void, his client ought to have been permitted to hold an extent of 5 acres of wet, or 10 acres of dry land.

Learned Government Pleader for Social Welfare, on the other hand, submits that when the very assignment of Ac.40-00 of land, that too in favour of a non-tribal, was found to be in contravention of various Regulations in vogue, at the relevant point of time, the question of the petitioner or his father, deriving any title or right to the same, does not arise. He contends that even otherwise, the petitioner and his father parted away with almost Ac.18-00 of land, and under no circumstances, the petitioner can be permitted to be in possession of the land in question.

It is stated that the possession of the land was already resumed on 6.1.1989, and it was distributed among 5 eligible tribals.

The transfer of lands in tribal areas were always regulated, almost for the past one Century. 1917 Regulation restricted transfer in favour of non-tribals. Regulation 1 of 1959 sought to bar transfer from tribals in favour of non-tribals. Section 3 thereof was amended, through Regulation 1 of 1970, prohibiting the proceedings, even among non-tribals. Admittedly, the father of the petitioner and his transferor are non-tribals. Therefore, the transfer was found to be in contravention of the Regulation.

It is strongly urged that the Regulation does not have retrospective effect and the transfer in favour of the father of the petitioner cannot be said to be void. To

appreciate this contention, it would become necessary, to refer to the restrictions contained in the Regulations that preceded Regulation 1 of 1959. It is urged on behalf of the petitioner that all the authorities, who dealt with the matter, are mostly impressed by the fact that there existed a restriction, on the extent assigned, whether any tribal or
non-tribal, and assignment of Ac.40-00 in favour of the vendor of the father of the petitioner was *ex facie* illegal. It is urged that even if the same is excluded, the right of the petitioner *vis-à-vis* 10 acres of land cannot be disturbed.

This court would have examined this contention, if only the entire property purchased by the father of the petitioner remained in tact. Even according to the petitioner, an extent of Ac.17-32 cents was sold away, during the life time of his father. The petitioner cannot be permitted to have the benefit of the sale and retain 5 acres of wet and 10 acres of dry land, out of the remaining area of Ac.22-68 cents. The primary, appellate and revisionary authorities have examined the matter, from the proper perspective, and this court does not find any basis to interfere with the same. At any rate, the possession of the property is said to have already been taken.

Therefore, the writ petition is dismissed. There shall be no order as to costs.

31st January 2007

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